

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 232

Introduced by Senator Hall

(Principal coauthor: Assembly Member Burke)

February 13, 2015

An act to amend Section ~~52074~~ *41326* of the Education Code, relating to school accountability.

LEGISLATIVE COUNSEL'S DIGEST

SB 232, as amended, Hall. School accountability: ~~local control and accountability plans~~; California Collaborative for Educational Excellence. *Excellence: state administrator.*

Existing law authorizes the governing board of a school district to request an emergency apportionment through the Superintendent of Public Instruction if the governing board of a school district determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations. Existing law provides that if a school district accepts an emergency apportionment that exceeds an amount equal to 200% of the amount of the reserve recommended for that school district, as specified, the Superintendent must, among other things, assume all the legal rights, duties, and powers of the governing board of the qualifying school district, as defined, and, in consultation with the county superintendent of schools, appoint an administrator to act on the Superintendent's behalf. Existing law authorizes the administrator to take certain actions, including, among others, revising the educational program of the qualifying school district to reflect realistic income projections and pupil performance relative to state standards.

Existing law, on or before July 1, 2014, requires the governing board of each school district and each county board of education to adopt a local control and accountability plan and requires the governing board of each school district and each county board of education to update its local control and accountability plan on or before July 1 of each year. Existing law requires the local control and accountability plan to include certain ~~elements~~, *elements* and requires the charter *petition* for a charter school to include some of those same elements.

Existing law establishes the California Collaborative for Educational Excellence for purposes of advising and assisting school districts, county superintendents of schools, and charter schools in achieving the goals set forth in a local control and accountability plan. Existing law authorizes the Superintendent ~~of Public Instruction~~ to direct the collaborative to advise and assist a school district, county superintendent of schools, or charter school in specified ~~circumstances~~, *circumstances*, *including upon their request*.

This bill would also authorize ~~the Superintendent to direct the collaborative to advise and assist a school district if the state-appointed trustee or administrator of the a school district requests that to request the advice and assistance~~, *assistance of the collaborative*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41326 of the Education Code is amended
2 to read:
3 41326. (a) Notwithstanding any other provision of this code,
4 the acceptance by a school district of an apportionment made
5 pursuant to Section 41320 that exceeds an amount equal to 200
6 percent of the amount of the reserve recommended for that school
7 district under the standards and criteria adopted pursuant to Section
8 33127 constitutes the agreement by the school district to the
9 conditions set forth in this article. Before applying for an
10 emergency apportionment in the amount identified in this
11 subdivision, the governing board of a school district shall discuss
12 the need for that apportionment at a regular or special meeting of
13 the governing board of the school district and, at that meeting,
14 shall receive testimony regarding the apportionment from parents,
15 exclusive representatives of employees of the school district, and

1 other members of the community. For purposes of this article,
2 “qualifying school district” means a school district that accepts a
3 loan as described in this subdivision.

4 (b) The Superintendent shall assume all the legal rights, duties,
5 and powers of the governing board of a qualifying school district.
6 The Superintendent, in consultation with the county superintendent
7 of schools, shall appoint an administrator to act on his or her behalf
8 in exercising the authority described in this subdivision in
9 accordance with all of the following:

10 (1) The administrator shall serve under the direction and
11 supervision of the Superintendent until terminated by the
12 Superintendent at his or her discretion. The Superintendent shall
13 consult with the county superintendent of schools before
14 terminating the administrator.

15 (2) The administrator shall have recognized expertise in
16 management and finance.

17 (3) To facilitate the appointment of the administrator and the
18 employment of necessary staff, for purposes of this section, the
19 Superintendent is exempt from the requirements of Article 6
20 (commencing with Section 999) of Chapter 6 of Division 4 of the
21 Military and Veterans Code and Part 2 (commencing with Section
22 10100) of Division 2 of the Public Contract Code.

23 (4) Notwithstanding any other law, the Superintendent may
24 appoint an employee of the state or the office of the county
25 superintendent of schools to act as administrator for up to the
26 duration of the administratorship. During the tenure of his or her
27 appointment, the administrator, if he or she is an employee of the
28 state or the office of the county superintendent of schools, is an
29 employee of the qualifying school district, but shall remain in the
30 same retirement system under the same plan that has been provided
31 by his or her employment with the state or the office of the county
32 superintendent of schools. Upon the expiration or termination of
33 the appointment, the employee shall have the right to return to his
34 or her former position, or to a position at substantially the same
35 level as that position, with the state or the office of the county
36 superintendent of schools. The time served in the appointment
37 shall be counted for all purposes as if the administrator had served
38 that time in his or her former position with the state or the office
39 of the county superintendent of schools.

(5) Except for an individual appointed as an administrator by the Superintendent pursuant to paragraph (4), the administrator shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the qualifying school district for purposes of providing appropriate contributions to the system. The Superintendent may also require the administrator to be placed on the payroll of the qualifying school district for purposes of remuneration, other benefits, and payroll deductions.

(6) For purposes of workers' compensation benefits, the administrator is an employee of the qualifying school district, except that an administrator appointed pursuant to paragraph (4) may be deemed an employee of the state or office of the county superintendent of schools, as applicable.

(7) The qualifying school district shall add the administrator as a covered employee of the qualifying school district for all purposes of errors and omissions liability insurance policies.

(8) The salary and benefits of the administrator shall be established by the Superintendent and paid by the qualifying school district.

(9) The Superintendent or the administrator may employ, on a short-term basis and at the expense of the qualifying school district, any staff necessary to assist the administrator, including, but not limited to, a certified public accountant.

(10) The administrator may do all of the following:

(A) Implement substantial changes in the fiscal policies and practices of the qualifying school district, including, if necessary, the filing of a petition under Chapter 9 (commencing with Section 901) of Title 11 of the United States Code for the adjustment of indebtedness.

(B) Revise the educational program of the qualifying school district to reflect realistic income projections and pupil performance relative to state standards.

1 (C) Encourage all members of the school community to accept
2 a fair share of the burden of the fiscal recovery of the qualifying
3 school district.

4 (D) Consult, for the purposes described in this subdivision, with
5 the governing board of the qualifying school district, the exclusive
6 representatives of the employees of the qualifying school district,
7 parents, and the community.

8 (E) Consult with, and seek recommendations from, the
9 Superintendent, the county superintendent of schools, and the
10 County Office Fiscal Crisis and Management Assistance Team
11 authorized pursuant to subdivision (c) of Section 42127.8 for
12 purposes described in this article.

13 (F) With the approval of the Superintendent, enter into
14 agreements on behalf of the qualifying school district and, subject
15 to any contractual obligation of the qualifying school district,
16 change existing school district rules, regulations, policies, or
17 practices as necessary for the effective implementation of the
18 recovery plans referred to in Sections 41327 and 41327.1.

19 *(G) Request the advice and assistance of the California*
20 *Collaborative for Educational Excellence pursuant to paragraph*
21 *(1) of subdivision (f) of Section 52074.*

22 (c) (1) Except as provided for in paragraph (2), the period of
23 time during which the Superintendent exercises the authority
24 described in subdivision (b), the governing board of the qualifying
25 school district shall serve as an advisory body reporting to the
26 state-appointed administrator, and has no rights, duties, or powers,
27 and is not entitled to any stipend, benefits, or other compensation
28 from the qualifying school district.

29 (2) (A) After one complete fiscal year has elapsed following
30 the qualifying school district's acceptance of an emergency
31 apportionment, the governing board of the qualifying school district
32 may conduct an annual advisory evaluation of an administrator
33 for the duration of the administratorship.

34 (B) An advisory evaluation of an administrator shall focus on
35 the administrator's effectiveness in leading the qualifying school
36 district toward fiscal recovery and improved academic
37 achievement. Advisory evaluation criteria shall be agreed upon
38 by the governing board of the qualifying school district and the
39 administrator before the advisory evaluation. The advisory
40 evaluation shall include, but not be limited to, all of the following:

1 (i) Goals and standards consistent with Section 41327.1.
2 (ii) Commendations in the areas of the administrator's strengths
3 and achievements.

4 (iii) Recommendations for improving the administrator's
5 effectiveness in areas of concern and unsatisfactory performance.

6 (C) An advisory evaluation of an administrator conducted by
7 the governing board of a qualifying school district shall be
8 submitted to the Governor, the Legislature, the Superintendent,
9 and the County Office Fiscal Crisis and Management Assistance
10 Team.

11 (3) Upon the appointment of an administrator pursuant to this
12 section, the district superintendent is no longer an employee of the
13 qualifying school district.

14 (4) A determination of the severance compensation for the
15 district superintendent shall be made pursuant to subdivision (j).

16 (d) Notwithstanding Section 35031 or any other law, the
17 administrator, after according the affected employee reasonable
18 notice and the opportunity for a hearing, may terminate the
19 employment of a deputy, associate, assistant superintendent, or
20 other school district level administrator who is employed by a
21 qualifying school district under a contract of employment signed
22 or renewed after January 1, 1992, if the employee fails to
23 document, to the satisfaction of the administrator, that before the
24 date of the acceptance of the emergency apportionment he or she
25 either advised the governing board of the qualifying school district,
26 or his or her superior, that actions contemplated or taken by the
27 governing board of the qualifying school district could result in
28 the fiscal insolvency of the qualifying school district, or took other
29 appropriate action to avert that fiscal insolvency.

30 (e) The authority of the Superintendent, and the administrator,
31 under this section shall continue until all of the following occur:

32 (1) (A) After one complete fiscal year has elapsed following
33 the qualifying school district's acceptance of an emergency
34 apportionment as described in subdivision (a), the administrator
35 determines, and so notifies the Superintendent and the county
36 superintendent of schools, that future compliance by the qualifying
37 school district with the recovery plans approved pursuant to
38 paragraph (2) is probable.

39 (B) The Superintendent may return power to the governing
40 board of the qualifying school district for an area listed in

1 subdivision (a) of Section 41327.1 if performance under the
2 recovery plan for that area has been demonstrated to the satisfaction
3 of the Superintendent.

4 (2) The Superintendent has approved all of the recovery plans
5 referred to in subdivision (a) of Section 41327 and the County
6 Office Fiscal Crisis and Management Assistance Team completes
7 the improvement plans specified in Section 41327.1 and has
8 completed a minimum of two reports identifying the qualifying
9 school district's progress in implementing the improvement plans.

10 (3) The administrator certifies that all necessary collective
11 bargaining agreements have been negotiated and ratified, and that
12 the agreements are consistent with the terms of the recovery plans.

13 (4) The qualifying school district has completed all reports
14 required by the Superintendent and the administrator.

15 (5) The Superintendent determines that future compliance by
16 the qualifying school district with the recovery plans approved
17 pursuant to paragraph (2) is probable.

18 (f) When the conditions stated in subdivision (e) have been met,
19 and at least 60 days after the Superintendent has notified the
20 Legislature, the Department of Finance, the Controller, and the
21 county superintendent of schools that he or she expects the
22 conditions prescribed pursuant to this section to be met, the
23 governing board of the qualifying school district shall regain all
24 of its legal rights, duties, and powers, except for the powers held
25 by the trustee provided for pursuant to Article 2 (commencing with
26 Section 41320). The Superintendent shall appoint a trustee under
27 Section 41320.1 to monitor and review the operations of the
28 qualifying school district until the conditions of subdivision (b)
29 of that section have been met.

30 (g) Notwithstanding subdivision (f), if the qualifying school
31 district violates a provision of the recovery plans approved by the
32 Superintendent pursuant to this article within five years after the
33 trustee appointed pursuant to Section 41320.1 is removed or after
34 the emergency apportionment is repaid, whichever occurs later,
35 or the improvement plans specified in Section 41327.1 during the
36 period of the trustee's appointment, the Superintendent may
37 reassume, either directly or through an administrator appointed in
38 accordance with this section, all of the legal rights, duties, and
39 powers of the governing board of the qualifying school district.
40 The Superintendent shall return to the governing board of the

1 qualifying school district all of its legal rights, duties, and powers
2 reassumed under this subdivision when he or she determines that
3 future compliance with the approved recovery plans is probable,
4 or after a period of one year, whichever occurs later.

5 (h) Article 2 (commencing with Section 41320) shall apply
6 except as otherwise specified in this article.

7 (i) It is the intent of the Legislature that the legislative budget
8 subcommittees annually conduct a review of each qualifying school
9 district that includes an evaluation of the financial condition of the
10 qualifying school district, the impact of the recovery plans upon
11 the qualifying school district's educational program, and the efforts
12 made by the state-appointed administrator to obtain input from the
13 community and the governing board of the qualifying school
14 district.

15 (j) (1) The district superintendent is entitled to a due process
16 hearing for purposes of determining final compensation. The final
17 compensation of the district superintendent shall be between zero
18 and six times his or her monthly salary. The outcome of the due
19 process hearing shall be reported to the Superintendent and the
20 public. The information provided to the public shall explain the
21 rationale for the compensation.

22 (2) This subdivision applies only to a contract for employment
23 negotiated on or after June 21, 2004.

24 (k) (1) When the Superintendent assumes control over a
25 qualifying school district pursuant to subdivision (b), he or she
26 shall, in consultation with the County Office Fiscal Crisis and
27 Management Assistance Team, review the fiscal oversight of the
28 qualifying school district by the county superintendent of schools.
29 The Superintendent may consult with other fiscal experts, including
30 other county superintendents of schools and regional fiscal teams,
31 in conducting this review.

32 (2) Within three months of assuming control over a qualifying
33 school district, the Superintendent shall report his or her findings
34 to the Legislature and shall provide a copy of that report to the
35 Department of Finance. This report shall include findings as to
36 fiscal oversight actions that were or were not taken and may include
37 recommendations as to an appropriate legislative response to
38 improve fiscal oversight.

39 (3) If, after performing the duties described in paragraphs (1)
40 and (2), the Superintendent determines that the county

1 superintendent of schools failed to carry out his or her
2 responsibilities for fiscal oversight as required by this code, the
3 Superintendent may exercise the authority of the county
4 superintendent of schools who has oversight responsibilities for a
5 qualifying school district. If the Superintendent finds, based on
6 the report required in paragraph (2), that the county superintendent
7 of schools failed to appropriately take into account particular types
8 of indicators of financial distress, or failed to take appropriate
9 remedial actions in the qualifying school district, the
10 Superintendent shall further investigate whether the county
11 superintendent of schools failed to take into account those
12 indicators, or similarly failed to take appropriate actions in other
13 school districts with negative or qualified certifications, and shall
14 provide an additional report on the fiscal oversight practices of the
15 county superintendent of schools to the appropriate policy and
16 fiscal committees of each house of the Legislature and the
17 Department of Finance.

18 ~~SECTION 1. Section 52074 of the Education Code is amended~~
19 ~~to read:~~

20 ~~52074. (a) The California Collaborative for Educational~~
21 ~~Excellence is hereby established.~~

22 ~~(b) The purpose of the California Collaborative for Educational~~
23 ~~Excellence is to advise and assist school districts, county~~
24 ~~superintendents of schools, and charter schools in achieving the~~
25 ~~goals set forth in a local control and accountability plan adopted~~
26 ~~pursuant to this article.~~

27 ~~(c) The Superintendent shall, with the approval of the state~~
28 ~~board, contract with a local educational agency, or consortium of~~
29 ~~local educational agencies, to serve as the fiscal agent for the~~
30 ~~California Collaborative for Educational Excellence. The~~
31 ~~Superintendent shall apportion funds appropriated for the California~~
32 ~~Collaborative for Educational Excellence to the fiscal agent.~~

33 ~~(d) The California Collaborative for Educational Excellence~~
34 ~~shall be governed by a board consisting of the following five~~
35 ~~members:~~

- 36 ~~(1) The Superintendent or his or her designee.~~
- 37 ~~(2) The president of the state board or his or her designee.~~
- 38 ~~(3) A county superintendent of schools appointed by the Senate~~
39 ~~Committee on Rules.~~
- 40 ~~(4) A teacher appointed by the Speaker of the Assembly.~~

~~(5) A superintendent of a school district appointed by the Governor.~~

~~(e) At the direction of the governing board of the California Collaborative for Educational Excellence, the fiscal agent shall contract with individuals, local educational agencies, or organizations with the expertise, experience, and a record of success to carry out the purposes of this article. The areas of expertise, experience, and record of success shall include, but are not limited to, all of the following:~~

~~(1) State priorities as described in subdivision (d) of Section 52060.~~

~~(2) Improving the quality of teaching.~~

~~(3) Improving the quality of school district and schoolsite leadership.~~

~~(4) Successfully addressing the needs of special pupil populations, including, but not limited to, English learners, pupils eligible to receive a free or reduced-price meal, pupils in foster care, and individuals with exceptional needs.~~

~~(f) The Superintendent may direct the California Collaborative for Educational Excellence to advise and assist a school district, county superintendent of schools, or charter school in any of the following circumstances:~~

~~(1) If the governing board of a school district, county board of education, or governing body of a charter school requests the advice and assistance of the California Collaborative for Educational Excellence.~~

~~(2) If the county superintendent of schools of the county in which the school district or charter school is located determines, following the provision of technical assistance pursuant to Section 52071 or 47607.3, as applicable, that the advice and assistance of the California Collaborative for Educational Excellence is necessary to help the school district or charter school accomplish the goals described in the local control and accountability plan adopted pursuant to this article.~~

~~(3) If the Superintendent determines that the advice and assistance of the California Collaborative for Educational Excellence is necessary to help the school district, county superintendent of schools, or charter school accomplish the goals set forth in the local control and accountability plan adopted pursuant to this article.~~

1 ~~(4) If a state-appointed trustee or administrator of a school~~
2 ~~district requests the advice and assistance of the California~~
3 ~~Collaborative for Educational Excellence.~~

O